

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

J. FRANK FOUNTAIN, JR.,)

Plaintiff)

vs.)

Case No. 2:02-cv-01776-KOB-HGD

THOMAS E. REYNOLDS)

and PHILLIP BISHOP)

Defendants)

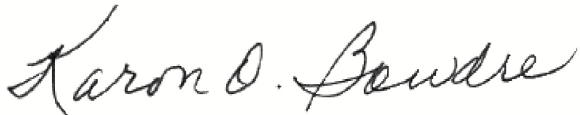
MEMORANDUM OF OPINION

Plaintiff filed this complaint alleging that the defendants conspired with each other to liquidate the plaintiff's assets during the course of a bankruptcy proceeding. Plaintiff maintains that Thomas E. Reynolds, the trustee in bankruptcy, allowed Phillip Bishop to buy the assets of his business for less than the fair market value even though there were higher bids on the property. Plaintiff also contends the defendants seized property that was not part of the bankruptcy case and liquidated those for their benefit. Plaintiff requests that this court order a grand jury investigation of the actions of the defendants and award him one million dollars for the losses he suffered.

Plaintiff's complaint is due to be dismissed as this court has no authority to grant the relief he seeks. Plaintiff seeks the prosecution of the defendants and restitution. A private citizen, however, has no "judicially cognizable interest in the prosecution or non-prosecution of another." *Linda R.S. v. Richard D.*, 410 U.S. 614, 619 (1973) This court is, therefore, without authority to grant the requested relief. *See Otero v. United States Attorney General*, 832 F.2d 141 (11th Cir. 1987).

This action is due to be **DISMISSED WITH PREJUDICE**. A Final Judgment will be entered.

DONE this 13th day of February, 2006.



KARON OWEN BOWDRE
UNITED STATES DISTRICT JUDGE